

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY</b>	
	<b>Chapter 4: Assessment</b>	<b>Effective Date:</b> March 1, 2021
	<b>Section 28: Removals from Parents, Guardians, or Custodians</b>	<b>Version:</b> 9

<b>POLICY OVERVIEW</b>
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Removal of a child from the child’s parent, guardian, or custodian may be necessary to ensure the child’s safety and well-being.

<b>PROCEDURE</b>
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The Indiana Department of Child Services (DCS) will remove a child from the child’s parent, guardian, or custodian if:

1. A reasonable person would believe the child’s physical or mental condition is seriously impaired or seriously endangered due to injury by the act or omission of the child’s parent, guardian, or custodian; **or**
2. The child’s physical or mental condition is seriously impaired or seriously endangered as a result of the inability, refusal, or neglect of the child’s parent, guardian, or custodian to supply the child with necessary food, clothing, shelter, medical care, education, or supervision; **and**
3. The coercive intervention of the court is needed to protect the child.

**Note:** The DCS local office will neither delay nor deny placement of the child in an available resource home based on the race, color, or national origin of the child or resource parent when a child who is believed to be a foreign national or an Indian child is removed due to an immediate safety concern.

When it is determined an involuntary removal of a child is necessary, the Family Case Manager (FCM) will:

1. Obtain supervisory approval prior to removal of any child from their parent, guardian, or custodian;
2. Determine if there are any barriers to communication with the parent, guardian, or custodian and take necessary action to make appropriate, reasonable accommodations;
3. Obtain a court order authorizing the removal unless emergency removal is necessary to protect the immediate health and safety of the child;

**Note:** In an Indian Child Welfare Act (ICWA) or potential ICWA case, the emergency removal only exists if a child alleged to be an Indian child is in imminent physical danger. See policy 2.12 Indian Child Welfare Act (ICWA) for additional information and the Guidelines for Implementing the Indian Child Welfare Act for additional information.

4. Request Law Enforcement Agency (LEA) presence at the removal. DCS will not remove a child without LEA present, unless:
  - a. Emergency removal is necessary; and

- b. LEA has been contacted, but is unable to be present during the removal and there is an immediate concern for the safety or well-being of the child.

**Note:** If DCS removes a child without a court order and/or LEA present, DCS will document in the case management system the reasons why such measures were necessary.

5. Obtain information about the child in order to make the transition for the child as easy and as safe as possible;
6. Prepare the child for removal. See policy 8.08 Preparing Child for Placement for additional information;
7. Ask the question, "Is this an Indian child?" If the child is believed to be an Indian child, complete the Indian Status Identification and genogram with the family and forward the completed documents to the FCM Supervisor for review, who will then forward documents to the DCS Staff Attorney;

**Note:** In ICWA cases, the DCS Staff Attorney will utilize the information from the Indian Status Identification and genogram to complete the ICWA notifications to the parent, Indian custodian, and/or Indian tribe in accordance with ICWA Guidelines.

8. Provide the child's parent, guardian, or custodian, including an alleged father or any known non-custodial parent, the Advisement of Legal Rights Upon Taking Custody of/Filing a Petition on Behalf of a Child Alleged to be a Child in Need of Services at the time of removal, or notify the parent, guardian, or custodian within two (2) hours of the child's detention, and provide the parent, guardian, or custodian with the Advisement of Legal Rights Upon Taking a Custody of/Filing a Petition on Behalf of a Child Alleged to be a Child in Need of Services if they were not present at the time of removal. If the parent is a minor, provide the Advisement of Legal Rights Upon Taking Custody of/Filing a Petition on Behalf of a Child Alleged to be a Child in Need of Services to the minor parent and the minor parent's parent, guardian, or the custodian.
9. Complete the Taking Custody of a Child Without a Verbal or Written Court Order: Description of Circumstances to document why the child was removed without a court order and/or without LEA presence if such extreme measures were taken;
10. Complete a diligent search to identify all adult relatives. See policy 2.06 Diligent Search for additional guidance;

**Note:** Consider completing a Permanency and Practice Support (PPS) referral to the DCS Investigators, if assistance is needed.

11. Complete and send the Notice to Relatives to the following adult relatives within 30 days of a child being removed from his or her parent, guardian, or custodian:
  - a. Paternal and maternal grandparents,
  - b. Aunts and uncles,
  - c. Siblings of the child involved (see Relevant Information for the definition of a sibling),
  - d. Parent of a child's sibling if the parent has legal custody of the sibling, and
  - e. Any other relatives suggested by the child or parent.
12. Consider the suitability of noncustodial parents, relatives, and former foster parents when securing appropriate placement for the child. See policies 8.01 Selecting a Placement Option and 8.09 Placing a Child in Out-of-Home Care for additional information;

13. Notify the child's school of the child's removal as soon as the child is safely placed to ensure the school is aware of any safety measures and/or medical interventions needed;
14. Complete a PPS referral to the Education Services Team within 24 hours to request the School Notification and Best Interest Determination (BID) be submitted to the child's school. See policies 8.20 Educational Services and 8.22 School Notifications and Legal Settlement for additional information;
15. Notify the DCS Central Eligibility Unit (CEU) when a child receiving benefits from the Adoption Assistance Program (AAP) or the Guardianship Assistance Program (GAP) is removed from the home;
16. Complete the Consulate/Embassy Notification immediately when a foreign or a child with dual nationality is detained or a foreign nationality is identified, whichever comes first, and send to the International and Cultural Affairs (ICA) liaison. See policy 2.22 International and Cultural Affairs Services for more information;

**Note:** A Consulate/Embassy Notification must be completed for each child. A copy of any case documents (e.g., court orders, identification documents, and paternity orders) and any additional contact information should be attached when the Consulate/Embassy Notification is submitted.

17. Complete the Preliminary Inquiry (PI) and submit it to the FCM Supervisor for review;
18. Consult with the DCS Staff Attorney to finalize the PI for submission to the court and request a Detention Hearing be scheduled to occur within 48 hours of detention of the child, excluding Saturdays, Sundays, and state holidays;
19. Provide the parent, guardian, or custodian with advance written notification of the Detention Hearing using the Notice of Hearing. Also, see notification responsibilities for ICWA in policy 2.12 Indian Child Welfare Act (ICWA);
20. Complete the DCS Child Support Worksheet Questionnaire Form in consultation with the parent, guardian, or custodian and submit it to the DCS Staff Attorney. See policy 2.20 Establishment of Child Support Orders;
21. Gather the information necessary to determine eligibility for federal funding when a child is removed from the home;
22. Coordinate and facilitate the Child and Family Team (CFT) Meeting when it has been determined the child is at imminent risk of removal. See policy 5.07 Child and Family Team (CFT) Meetings for additional information;

**Note:** The CFT composition may look different in the assessment phase. Over time, the functioning of the team may change and other team members may be identified.

23. Complete a Child and Adolescent Needs and Strengths (CANS) Assessment. See policy 5.19 Child and Adolescent Needs and Strengths (CANS) Assessment for additional information;
24. Complete a PPS referral in KidTraks for ICA services if ICA needs are identified; and
25. Ensure all information and actions taken are documented in the case management system.

**Note:** If a child is removed from the home for more than 24 hours, the case needs to be entered in the case management system, as required by Adoption and Foster Care Analysis and Reporting System (AFCARS).

The FCM Supervisor will:

1. Staff with the FCM and provide supervisory approval for removal of a child when it has been determined the child cannot safely remain in the home;
2. Assist the FCM with any removal activities; and
3. Review the PI prior to the DCS Staff Attorney screening the PI and CHINS petition.

The DCS Staff Attorney will:

1. Staff with the FCM and FCM Supervisor, as needed, regarding the involuntary removal;
2. Review the PI prior to securing a Detention Hearing;
3. Email or fax the Consulate/Embassy Notification to the ICA liaison, if applicable;
4. Provide the ICWA notification to the child's parent, Indian custodian, and/or Indian tribe within the mandated timeframe, and obtain confirmation of child's eligibility (or non-eligibility) for membership in a U.S. Federally Recognized tribe, if applicable;
5. File a request for authorization to file a CHINS petition;
6. Prepare a CHINS petition and file upon receipt of authorization to file from the court;
7. Ensure a motion is filed timely for a detention hearing. See policy 6.01 Detention/Initial Hearing for additional information; and
8. Ensure required language regarding Contrary to the Welfare/Best Interests of the child (CW/BI), Reasonable Efforts (RE) to Prevent Removal, and Placement and Care Responsibility (PC) to DCS or Active Efforts for ICWA cases is included in the Detention/Initial court order.

The ICA Liaison will:

1. Send the Consulate/Embassy Notification to the appropriate consulate or embassy of the child's country of origin, if applicable; and
2. Serve as the liaison for DCS and each respective consulate or embassy in sharing information as allowed by law. See policy 2.22 International and Cultural Affairs Services for additional information.

## LEGAL REFERENCES

- [IC 31-33-8-8: Order for child's immediate removal](#)
- [IC 31-32-3-10.5 Definitions; waiting lists](#)
- [IC 31-34-2-3: Taking a child into custody without court order; documentation](#)
- [IC 31-34-2-6: Documentation by person taking child into custody without court order; forms](#)
- [IC 31-34-4: Temporary Placement of Child Taken into Custody](#)
- [IC 31-34-3-4.5: Notice of removal of child](#)
- [IC 31-34-3-4.7: Notice to School of Child Taken into Custody](#)
- [IC 31-9-2-107\(b\): "Relative"](#)
- [IC 34-30-2-134: Reporting Child Abuse or Neglect](#)
- [42 USC 671 \(a\)\(29\): Notification of Parents of Siblings](#)
- [31-9-2-88: "Parent"](#)

## RELEVANT INFORMATION

### Definitions

#### Alleged Father

An alleged father is any man claiming to be or charged with being a child's biological father who has not yet been established as the child's legal father.

### Non-custodial Parent

A non-custodial parent is a person who does not have physical custody of the child.

### Parent

A parent, as defined by 31-9-2-88, is a biological or an adoptive parent. The term refers to both parents, regardless of the marital status. A parent includes an alleged father.

### Sibling

A sibling is defined as:

1. A brother or sister by blood or adoption, half-sibling by blood or adoption, or step-sibling; and
2. Any other individual who would be considered a sibling if parental rights had not been terminated.

### Foreign National

A foreign national is any person (adult or child) who is born outside of the U.S. and has not become a U.S. citizen.

### **Forms and Tools**

- [Taking Custody of a Child Without a Verbal or Written Court Order: Description of Circumstances \(SF 49584\)](#)
- [Advisement of Legal Rights Upon Taking a Custody of/Filing a Petition on Behalf of a Child Alleged to be a Child in Need of Services \(SF 47114\)](#)
- Notice of Hearing – Available in the [Juvenile Justice Benchbook: Child in Need of Services](#)
- [Notice to Relatives \(SF 55211\)](#)
- [Consulate/Embassy Notification \(SF 55676\)](#)
- [DCS Child Support Worksheet Questionnaire Form](#)
- [Title IV-E and Title IV-A/EA Information \(SF 55435\)](#)
- Preliminary Inquiry (PI) – Available in the case management system
- [Indian Status Identification \(SF 55407\)](#)

### **Related Policies**

- [2.06 Diligent Search](#)
- [2.12 Indian Child Welfare Act \(ICWA\)](#)
- [2.20 Establishment of Child Support Orders](#)
- [2.22 International and Cultural Affairs Services](#)
- [5.07 Child and Family Team Meetings](#)
- [6.01 Detention/Initial Hearing](#)
- [8.01 Selecting a Placement Option](#)
- [8.08 Preparing a Child for Placement](#)
- [8.20 Educational Services](#)
- [8.22 School Notifications and Legal Settlement](#)